

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

HAROLD KELLY MURPHY,

Plaintiff,

v.

SOUTHERN ENERGY HOMES, INC., et al.,

Defendants.

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Case No.: 2:06-cv-618-MEF

**MOTION FOR LEAVE TO FILE SUR-REPLY IN SUPPORT OF
MOTION FOR JUDGMENT ON THE PLEADINGS**

COMES NOW Defendant Southern Energy Homes, Inc. (“Southern Energy”) and hereby seeks leave of this Court to file the attached Sur-Reply in Support of its Motion for Judgment on the Pleadings. In support of this motion, Southern Energy hereby states as follows:

1. Southern Energy has previously submitted to this Honorable Court, in support of its Motion for Judgment on the Pleadings, an Order from the United States District Court for Western District of Louisiana in *Guidroz v. Champion Enterprises, Inc.*, granting Defendants’ Rule 12(b) Motion to Dismiss on the exact same preemption grounds that Southern Energy seeks for this Court to dismiss the Complaint in the case at bar.

2. Last week, Plaintiff Harold Murphy filed a Motion for Leave to Amend [Its Opposition to the Motion for Judgment on the Pleadings], seeking permission to submit to this Court an August 1, 2007 Minutes of Hearing and Order from the *Guidroz* Court.

3. Because Southern Energy believes that Plaintiff's Motion for Leave misconstrues the substance, scope, and effect of the *Guidroz* Court's August 1st Minutes of Hearing and Order, Southern Energy seeks leave to file the attached Sur-Reply.

4. The Sur-Reply very briefly sets forth the proper context of the recent *Guidroz* order and demonstrates why the *Guidroz* Court's rulings in fact support Southern Energy's Motion for Judgment on the Pleadings.

WHEREFORE, Defendant Southern Energy Homes, Inc. hereby respectfully requests the opportunity to file the attached Sur-Reply in support of its Motion for Judgment on Pleadings.

s/Thomas W. Thagard III

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CERTIFICATE OF SERVICE

I hereby certify that on August 15th, 2007 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Charles Lance Gould, Esq.

s/Thomas W. Thagard III
Of Counsel